

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-100—sHB 5795

Public Safety and Security Committee

Judiciary Committee

Planning and Development Committee

**AN ACT CONCERNING THE LICENSING AND RECORD KEEPING OF
PAWNBROKERS, SECONDHAND DEALERS AND PRECIOUS METALS
OR STONES DEALERS, THE RETENTION OF CERTAIN GOODS AND
CERTAIN FEES CHARGED BY PAWNBROKERS**

SUMMARY: This act (1) makes numerous changes in the statutes governing pawnbrokers and precious metals and stones dealers, (2) creates a secondhand dealer license with substantially similar requirements as those for pawnbrokers, and (3) specifies that a junk dealer is someone who deals in secondhand articles that are no longer serviceable for their original manufactured purpose.

The act creates additional requirements for pawnbrokers, and new requirements for secondhand dealers for (1) licensing, (2) tangible property sales and purchases, (3) record-keeping, (4) payment, (5) reports, and (6) enforcement.

The act makes it a class D felony (see Table on Penalties) to willfully engage in any of these professions without a license or to continue operating after receiving notification that a license has been suspended or revoked. Unless otherwise specified by law, violation of any law governing (1) pawnbrokers or secondhand dealers is a class A misdemeanor and (2) precious metals or stones dealers is punishable by a fine of up to \$1,000.

The act makes the licensing authority the same for pawnbrokers, secondhand dealers, and precious metals and stones dealers. It also defines business entities that are not subject to the act's requirements and makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2011

§ 1(12) — LICENSING AUTHORITY

The act makes a town's police chief the licensing authority for pawnbrokers, secondhand dealers, and precious metals and stones dealers. For any city or town that does not have an organized local police department, the public safety commissioner is the licensing authority. Under prior law, the licensing authority for pawnbrokers and precious metals and stones dealers was either a town's selectmen or a city's police chief. The act thus ensures that a law enforcement official will be in charge of regulating these professions.

§§ 1-11 — PAWNBROKER AND SECONDHAND DEALER

§ 1(1),(3) — Definitions

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The act defines “pawnbroker” as anyone engaged in the business of (1) loaning money on the deposit or pledge of wearing apparel, jewelry, ornaments, household goods, or other personal property or (2) purchasing such property on condition of selling it back to the seller at a stipulated price.

A “secondhand dealer” is anyone primarily engaged in the business of purchasing personal property from a person who is not a wholesaler, for the purpose of reselling or exchanging the property, and has physical possession of the property.

Entities that deal in secondhand goods but are not subject to licensing as secondhand dealers are dealers in: antiques, art, coins and stamps, precious metals or stones, special collectibles, musical instruments, used books, motor vehicles, and junk. Also excluded are consignment shop operators, pawnbrokers, auctioneers, scrap metal processors, recycling facilities, bona fide charitable or religious corporations, and retailers that sell new items but give consideration other than cash for traded items.

§§ 3(a),10(a) — License Requirements

By law, the licensing authority may issue a pawnbroker’s license to suitable people and revoke it for cause. Under the act, it may be suspended for the same reason. Under the act, “cause” includes failing to comply with any specified licensing requirements imposed at the time of issuance.

The act creates a secondhand dealer license. Previously, transactions involving secondhand dealers were not regulated. The licensing authority may grant secondhand dealer licenses to any suitable person with a fixed place of business within the town or city limits. A secondhand license is not needed for transactions involving the purchase of personal property from a person who is not a wholesaler for the purpose of resale or exchange by a (1) charitable or religious corporation or (2) person conducting garage, yard, tag, or estate sales entirely at a private residence for up to 72 hours during any six-month period.

§§ 3(b),10(b) — License Fees and Bond Requirements

The act allows the public safety commissioner to collect and use for the department’s benefit the \$50 pawnbroker licensing fee and \$25 renewal fee if he is the licensing authority. Otherwise, the law requires towns to collect the fees and use them for their benefit. The same requirements apply to secondhand dealers, but the fees for licensing and renewal are \$250 and \$100, respectively.

The law requires pawnbrokers to file with the licensing authority a \$2,000 surety bond. Secondhand dealers must post a \$10,000 bond. The act exempts pawnbrokers who are also secondhand dealers from pawnbroker renewal fees and bond requirements.

§§ 3(d),(e),10(d),(e) — Applications

The act has the same application requirements for pawnbrokers and secondhand dealers. By law, pawnbroker licenses cannot be issued to anyone with a felony conviction; the act also applies this exclusion to secondhand dealers.

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It specifies that license applications must be in writing, signed under oath, and contain:

1. the type of business to be engaged in;
2. the applicant's full name, age, and date and place of birth;
3. the applicant's home addresses and places of employment for the preceding five years;
4. the applicant's present occupation;
5. any criminal conviction, including the date and place; and
6. any additional information the licensing authority needs to investigate the applicant's qualifications, character, competency, and integrity.

The application of a corporation, limited liability company, partnership, or association must contain the information required for each individual who is or will be an officer, shareholder, financial backer, or creditor, other than a financial institution, and any other individual with a relationship to such entity similar to the relationships described above.

The application and any renewal application must also include information on any Internet website or account used to conduct business. The licensee, during the license term, must give the licensing authority written notice when it adds or discontinues any Internet website or account.

§§ 3(f), 10(f) — Background Checks

The act allows the licensing authority to require any pawnbroker or secondhand dealer applicant or employee or person with an ownership interest in the business to submit to a state and national criminal history check. Prior law allowed the licensing authority to require criminal history checks only on the pawnbroker applicant. The act requires the subject to submit two sets of fingerprints whenever a criminal history check is required. It also allows the licensing authority to charge the subject a fee equal to the fees the FBI and the State Police Bureau of Identification charge for performing the background checks.

§§ 3(g), 10(g)-(j) — Administrative License Procedures

The act sets out the same license approval procedures for pawnbrokers and secondhand dealers. It requires the licensing authority to grant or deny an application within 90 days after it is filed. The licensee must file for renewal at least 60 days before the license expires, and the licensing authority must grant or deny it within 30 days of the filing. The licensing authority's failure to act within the specified time will be deemed a denial of the license or renewal application.

The licensing authority may deny, suspend, revoke, or modify any license at any time during the license period for good cause, after notice and a hearing. The hearing must be held within five days after the notice is issued and a decision rendered within 14 days thereafter. The licensee or applicant may appeal the licensing authority's decision to the Superior Court.

The act allows secondhand dealers, but not pawnbrokers, to apply for an exemption from the licensure requirement for a license term or for a shorter period as the licensing authority may determine for good cause. The licensing

authority may exempt an individual from the licensing requirements for good cause.

§§ 3(c), 10(c) – License Display Requirements

The act requires pawnbrokers and secondhand dealers to display their license in a conspicuous location on their premises. It requires secondhand dealers licenses to contain their business location, something pawnbrokers licenses are already required to contain. The act also requires both pawnbroker and secondhand dealer applicants to disclose all the places they use or intend to use to buy, receive, store, or sell property. During the term of the license, the licensee must notify the licensing authority of any additional business locations prior to such use.

§§ 4(a), 11(a) — Customer Identification

The law requires pawnbrokers to obtain proof of identity from a person depositing, pledging, or selling property. The act extends this requirement to secondhand dealers. The identification must include a photograph; an address, if available on the identification; and an identifying number. The act makes birth dates acceptable identifying numbers for transactions. Secondhand dealers do not need to collect identification from wholesalers, who are defined as anyone engaged in the business of buying property in large quantities and reselling the property in the same or smaller quantities to people who resell the property to consumers.

§§ 4(b)-(d), 11(b)-(d) — Record-Keeping System

The act requires pawnbrokers to maintain a computerized record-keeping system that the licensing authority deems appropriate. Existing law requires an approved record-keeping system, but it does not have to be computerized.

The act requires secondhand dealers to maintain a record-keeping system with the same requirements as pawnbrokers. The system must be deemed appropriate by the licensing authority. Its entries must be entered in English at the time of purchase and consecutively numbered. It must also include a description of each article; the name, home address, proof of identity, and general description of the person selling the property; and the date and hour when the property was purchased.

The record's property description must include:

1. all distinguishing marks;
2. names of any kind, including brand and model names;
3. model and serial numbers;
4. engraving;
5. etchings;
6. affiliation with any institution or organization;
7. dates;
8. initials;
9. color;
10. vintage; and

11. image of any item that lacks identifiable numbers or markings.

A state or municipal police officer may, at any time, examine the records and place where business is carried on, including all articles on the property. They may also require any employee on the premises to provide proof of identity.

§§ 4(b)-(d), 11(b)-(d) — Digital Photographs and Tagging

The act requires, for both pawnbrokers and secondhand dealers, a digital photograph of property that does not have any identifiable numbers or markings. A tag must be attached to the article in a visible and convenient place with a number corresponding to the entry number in the record-keeping system. The tag must remain attached to the article until it is sold or disposed of and be visible in the digital photograph. The licensing authority must establish procedures authorizing the removal of the tags, including for jewelry that is cleaned and repaired on the premises. The records must be maintained for at least two years.

Any description of audio, video, or electronic media must include the title and artist or other identifying information from its cover. The licensing authority may exempt or establish additional or different requirements depending on the nature of the property, transaction, or business, including articles sold in bulk lots or with minimal value. Prior law did not mandate what identifying information had to be recorded.

§§ 6, 11(h) — Weekly Report

The law requires pawnbrokers to submit weekly sworn statements of their transactions to the licensing authority. The report is a sworn statement of transactions describing the property purchased, including the nature and terms of the transaction and the name, home address, and description of the person from whom the property was received. The act allows the licensing authority to require statements more frequently if the volume and nature of the business warrants it. It also requires pawnbrokers to submit statements electronically, but allows the licensing authority to grant exemptions for good cause. The act extends these requirements to secondhand dealers.

§ 5(a) — Memorandum or Note

The law requires pawnbrokers to give the person who deposits, pledges, or sells his or her property a memorandum or note containing the entry from his or her records. The act requires that the memorandum or note also include a copy of a statement signed by the person stating he or she is the rightful owner of the property with the right to enter into the transaction, and that the property is not stolen and does not have any liens or encumbrances against it. The note must also state that the person will indemnify and hold harmless the pawnbroker for any loss arising from the transaction because of someone else's superior right of possession. Pawnbrokers may charge customers a fee for costs associated with the transaction, property storage, insurance, and appraisals.

§§ 5(b), 11(e),(f) — Payment by Check, Draft, or Money Order

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The act requires any check, draft, or money order a pawnbroker uses to pay for property he or she receives to contain the same identification numbers the pawnbroker includes in his or her record-keeping system. The pawnbroker must keep the electronic copy of any check or other record issued by the financial institution that processes it. The copy is subject to inspection as part of the pawnbroker's record-keeping system.

The law requires pawnbrokers to make payments only by check, draft, or money order, rather than cash. However, a pawnbroker can cash a check, draft, or money order he or she issues to a person. The act prohibits pawnbrokers from cashing any check, draft, or money order it issues over \$1,000 and prohibits a person from structuring his or her transactions to avoid this limit. Any transaction between a pawnbroker and the same party within a 24-hour period is considered a single transaction for this purpose.

The act allows secondhand dealers to pay for merchandise only by check or money order. The dealer must indicate on the instrument the number(s) associated with the property in the record-keeping system. The secondhand dealer must also, when paying by check, retain the electronic copy or other record issued by the financial institution that processes the check, which is subject to police inspection.

Unlike pawnbrokers, the act prohibits secondhand dealers from cashing any instrument that he or she issues.

The act contains an exemption for secondhand dealers who were licensed pawnbrokers on March 31, 2011 and who continue to hold such license. Until July 1, 2021, they may pay cash for any instrument they issue under the pawnbroker statutes.

§§ 4(a), 11(g) — Sale to Minors Prohibited

The act prohibits pawnbrokers from transacting business with, and secondhand dealers from buying property from, a minor unless the minor is accompanied by a parent or guardian.

§§ 7, 11(i) — Sale of Property

The law prohibits pawnbrokers from selling or otherwise disposing of personal property left with them for less than two months. The act changes the minimum period to 60 days, but allows earlier sales when the customer is the person who pawned the property. It also specifies that if the property is not redeemed within 60 days the pawnbroker acquires the entire interest the customer had in the property without further notice. It eliminates the requirement that pawnbrokers place an advertisement in a local newspaper at least two days before putting the items up for sale.

The act prohibits a secondhand dealer from selling property within 10 days of receipt. If the property is sold outside of the retail place of business, the secondhand dealer must still keep a record of its sale.

§§ 8, 11(j) — Seizure of Property by Law Enforcement Officers

The act conforms the procedures for a law enforcement officer seizing property for secondhand dealers and precious metals or stones dealers to current

pawnbroker law. That law requires a law enforcement officer, when seizing property from a pawnshop, to give the pawnbroker a duly signed receipt for the seized property containing:

1. a case number,
2. a description of the property,
3. the reason for the seizure,
4. the name and address of the officer,
5. the name and address of the person claiming a right to the property other than the pawnbroker, and
6. the pawnbroker's name.

Under the act, if a pawnbroker, secondhand dealer, or precious metals and stones dealer claims an ownership interest in the property, he or she may request its return by filing a request with the law enforcement agency in accordance with the seized property procedures set in law.

The act allows the court to order restitution if the person who deposited, pledged, or sold the property is convicted of an offense arising out of the licensee's acquisition of the property and the licensee suffered an economic loss as a result.

§ 9 — *Penalties*

Under prior law, anyone who engaged in the pawnbroker business without a pawnbroker license (1) was guilty of a class D felony and (2) forfeited triple the amount loaned on the pledged property to any person who is injured and then sues.

The act requires that an individual act willfully to be guilty of engaging in the pawnbroker business without a license and eliminates the triple damages provision.

§ 12 — PRECIOUS METALS AND STONES DEALERS

A "precious metals or stones dealer" is anyone who is primarily engaged in the business of purchasing gold or gold-plated ware, silver or silver-plated ware, platinum ware, watches, jewelry, precious stones, bullion or coins.

The act requires a person engaging in transactions involving bullion to be licensed as a precious metals and stones dealer.

It makes willfully engaging in precious metals and stones dealing without a license a class D felony. Under prior law, the penalty was a fine of up to \$1,000.

The act also requires licensees to maintain a Connecticut business place where the goods purchased and records are to be available for inspection.

The act also (1) eliminates the option of paying for property by draft, (2) makes paying cash or cashing checks or money orders a class A misdemeanor, and (3) prohibits licensees from advertising that they will pay for property with cash. Violators can be fined up to \$1,000.

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